

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

CIVIL ACTION NO. 05-11803-MLW

SHENIA DANCY-STEWART as
Administratrix of the Estate
of EVELINE BARROS-CEPEDA,
Plaintiff,

v.

THOMAS TAYLOR, Jr., and the
CITY OF BOSTON,
Defendants.

**DEFENDANTS CITY OF BOSTON AND THOMAS TAYLOR'S EMERGENCY AND
UNOPPOSED MOTION TO ENLARGE THEIR MARCH 14, 2008 DEADLINE TO
PROVIDE EXPERT DISCLOSURES PURSUANT TO FED.R.CIV.P. 6(B).**

NOW COMES the Defendants, City of Boston and Thomas Taylor, who respectfully move this Honorable Court without opposition for a brief two-day extension of time to file one of two expert reports as required by Federal Rule of Civil Procedure 26(a)(2). As grounds for their motion, the Defendants state as follows:

1. In this case, the Plaintiff has made several civil rights and wrongful death claims against the Defendants which the Defendants vehemently deny. The Plaintiff's claims arise from the alleged conduct of Boston police officers in response to pursuing a fleeing motor vehicle driven by Brima Wurie Jr. on September 8, 2002. On that date, after Mr. Wurie failed to stop for a red-light and failed to stop for a police officer on several occasions, he struck and injured a uniformed police officer with his motor vehicle. Subsequently, Eveline Barros-Cepeda, a back seat passenger in the vehicle driven by Mr. Wurie was fatally shot. Her estate has brought the above-captioned action.
2. Per this Court's December 20, 2007 Scheduling Order, the Defendants are required to designate and disclose their experts by Friday, March 14, 2008.
3. The Defendants intend to designate and disclose two experts in the above-captioned matter: Elizabeth Ziolkowski, a forensic scientist, and Thomas Aveni, a

police practices and deadly force expert.

4. The Defendants will provide the requisite designation and disclosures for Elizabeth Ziolkowski, one of their two experts, by the March 14, 2008 deadline.
5. However, the Defendants require a brief two business day extension to provide the requisite disclosures under Fed. R. Civ. P. 26(a)(2) because of yesterday's (March 12, 2008) deposition of a percipient eyewitness, Travo Carter.
6. During yesterday's deposition, Mr. Carter testified to additional information regarding his observations of the events of September 8, 2002, and this information will be necessary for purposes of Mr. Aveni's case evaluation and expert opinion.
7. While Mr. Carter was scheduled to complete his deposition on numerous occasions prior to March 12, 2008, he failed to comply with his deposition subpoenas and appear and testify.
8. In fact, throughout the litigation of this case, the Defendants have encountered significant difficulty in obtaining the testimony of percipient eyewitnesses as numerous witnesses have repeatedly failed to comply with their deposition subpoenas and/or refused to testify, resulting not only in discovery depositions continuing through yesterday's late date of March 13, 2008, but also in the Defendants' expert's delay in obtaining all requisite information for purposes of rendering an expert opinion.
9. The Defendants have requested an expedited transcript from the stenographer, G&M Court Reporters, but the transcript will not be available until Friday, March 14, 2008, the date on which the Defendant's expert disclosures are due.
10. Accordingly, the Defendants respectfully request a brief two business day extension to allow their expert, Mr. Aveni, to review the second day of Mr. Carter's deposition and complete his expert report, as required under Fed. R. Civ. 26(a)(2).
11. The Defendants have also conferred with Plaintiff's counsel and Plaintiff's counsel has stated that he will not oppose the Defendants' motion.
12. Allowing this motion will not prejudice any party to the

action and permitting the Defendants this brief extension will further the interests of justice.

WHEREFORE, the Defendants, Thomas Taylor and City of Boston, respectfully request that this Honorable Court allow this motion to extend time to file the requisite expert disclosure for Thomas Aveni to Tuesday, March 18, 2008.

Respectfully submitted,

DEFENDANT, THOMAS TAYLOR JR.

William F. Sinnott
Corporation Counsel

By his attorneys:

CERTIFICATE OF SERVICE

I hereby certify that on this day, a copy of this document was served upon counsel of record for the Plaintiffs via email, facsimile, and U.S. Mail to Law Office of Andrew Stockwell-Alpert, 11 Beacon Street, Suite 1210, Boston, MA 02108.

3/13/08 /s/ Helen Litsas
Date

/s/ Helen Litsas
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7.1 Certification

Undersigned counsel certifies that on March 13, 2008, pursuant to LR, D. Mass. 7.1(a)(2), she spoke with Plaintiff's counsel who stated that the Plaintiff will not oppose the Defendants' motion.

Date: 3/13/08

Helen G. Litsas
Helen G. Litsas, Esq.